

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN RE:	*	CASE NO. 15-68137-PMB
	*	
RODNEY RENARD TOOMER, SR,	*	
AND	*	CHAPTER: 13
JERDONNA LAFAYE SAWYER,	*	
AKA JERDONNA TOOMER,	*	
AKA JERDONNA LAFAYE TOOMER,	*	
AKA JERDONNA L SAWYER,	*	
DEBTORS.	*	
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RODNEY RENARD TOOMER, SR,	*	
JERDONNA LAFAYE SAWYER,	*	
MOVANTS,	*	
VS.	*	
BAYVIEW LOAN SERVICING LLC,	*	
CLAIM NOT FILED	*	
RESPONDENT.	*	
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**CONTESTED MATTER**

**MOTION TO DETERMINE SECURED STATUS OF CLAIM  
OF JUNIOR LIEN HOLDER BAYVIEW LOAN SERVICING LLC**

COMES NOW Debtor and through counsel files this “Motion to Determine Secured Status of Claim of Junior Lien Holder Bayview Loan Servicing LLC,” showing to this Honorable Court the following:

1.

Jurisdiction is appropriate pursuant to 28 U.S.C. Section 1334; LR 83.7A NDGA; and, the Order of Referral entered by the United States District Court Northern District of Georgia on 12 July 1984. Venue is appropriate pursuant to 28 U.S.C. Section 1409. This matter is a core proceeding as defined in 28 U.S.C. Section 157(b)(2)(A) and (B).

2.

This motion is brought pursuant to 11 U.S.C. Section 506(a) and (d); Rule 3012 F. R. Bankr. P.; and, Rule 9014 F. R. Bankr. P.

3.

Respondent is a foreign, for-profit company, which may be served by certified mail to its registered agent for service of process, to-wit:

CORPORATION SERVICE COMPANY  
40 Technology Pkwy South  
Suite 300  
Norcross, GA 30092

4.

Respondent may also be served by certified mail to its President at the principal office address on record with the Georgia Secretary of State, to-wit:

Richard O'Brien, President  
4425 Ponce De Leon Blvd  
Coral Gables, FL 33146

5.

The instant chapter 13 case was initiated by the filing of the Debtors' voluntary petition September 21, 2015. Debtors' 341 Meeting of Creditors is scheduled for November 4, 2015 at 1:00 p.m. and the Confirmation Hearing is scheduled for December 3, 2015 at 9:45 a.m. The deadline for filing non-governmental proofs of claim is set for February 2, 2016.

6.

Debtors' Schedule A reflects ownership interest in residential real property located at 4318 Grant Forest Circle, Ellenwood, Georgia 30294 in DeKalb County (the "Property"). Debtors list the fair market value of the Property as \$83,800.00 based on the DeKalb County Tax Commissioner's Assessment (Exhibit A).

7.

The Property is Debtors' principal residence.

8.

Debtors' Schedule D reflects that the Property is subject to two liens. The first priority lien is held Bayview Loan Servicing, LLC in the approximate amount of \$157,970.00 (claim not filed yet). Based upon the valuation listed above, the amount of the first priority lien exceeds the value of the Property.

9.

Debtors' Property is also subject to the second priority lien held by Respondent in the approximate amount of \$6,072.00 (claim not filed yet). Based upon the value of the Property and the amount of the first priority lien, there is no equity in the Property to which Respondent's lien may attach.

10.

Respondent's claim is not secured by any other property of Debtor or Debtor's bankruptcy estate.

11.

Pursuant to 11 U.S.C. Sections 506(a) and 1322(b)(2), Respondent's lien against the Property should be deemed wholly unsecured

WHEREFORE, Debtor prays:

- (a) that this "Motion to Determine Secured Status of Claim" be filed, read, and considered;
- (b) that this motion be granted and Respondent's lien be determined to be void;
- (c) that Respondent's claim be deemed a wholly unsecured claim; and,

(d) that this Honorable Court grant such other and further relief as it deems just and proper.

Respectfully submitted,  
Clark & Washington, LLC

s/\_\_\_\_\_  
**Thomas J Reichard**  
GA Bar No. 150822  
Attorney for the Debtor

Clark & Washington, PC  
3300 Northeast Expressway  
Building 3  
Atlanta, GA 30341  
(404) 522-2222  
Fax(770)220-0685

## ANNUAL NOTICE OF ASSESSMENT

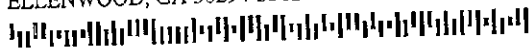
**DeKalb County**

Property Appraisal Department  
120 West Trinity Place, Room 208  
Decatur, GA 30030 PHONE (404) 371-0841

\*\*\*\*\*AUTO\*\*5-DIGIT 30294

SAWYER JERDONNA  
TOOMER RODNEY R  
4318 GRANT FOREST CIR  
ELLENWOOD, GA 30294-5502

199560/9/500/1



Notice Date: 05/29/2015

**This is not a tax bill  
Do not send payment**

Last Date to File Appeal:  
07/13/2015

County property records are available online at:  
dekalbcountyga.gov/propappr

OFFICIAL TAX MATTER - 2015 ASSESSMENT

The amount of your ad valorem tax bill for the year shown above will be based on the appraised (100%) and assessed (40%) values specified in this notice. You have the right to appeal these values to the County Board of Tax Assessors. All documents and records used to determine the current value are available on request. Additional information on the appeal process may be obtained at <http://dor.georgia.gov/documents/property-tax-guide>

At the time of filing your appeal you must select one of the following options:

- (1) Appeal to the County Board of Equalization with appeal to the Superior Court. (value, uniformity, denial of exemption, taxability)
- (2) To arbitration without an appeal to the Superior Court (valuation is the only grounds that may be appealed to arbitration)
- (3) For a parcel of non-homestead property with a FMV in excess of \$1 million, to a hearing officer with appeal to the Superior Court.

If you wish to file an appeal, you must do so in writing no later than 45 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. Appeal forms which may be used are available at

<http://web.co.dekalb.ga.us/PropertyAppraisal/appeal.html>

For further information on the proper method of filing an appeal, you may contact the DeKalb County Board of Tax Assessors which is located at 120 West Trinity Place, Room 208, Decatur, GA 30030 and which may be contacted by telephone at: (404) 371-0841.

Your staff contacts are RHONDA COBB (404) 371-7088 and ALBERTA LUMPKIN (404) 371-7092

Your staff contacts are RHONDA COLE (404) 571-1511													
Account Number	Property ID Number	Acreage	Tax Dist	Covenant Year	Homestead								
4642544	15 011 03 002	.10	UNINCORP		YES - H1								
Property Description	R3 - RESIDENTIAL LOT												
Property Address	4318 GRANT FOREST CIR												
Fair Market Value	Returned Value	Previous Year Value	Current Year Value	Other Value									
100% Fair Market Value		72,900	83,800										
40% Assessed Value		29,160	33,520										
REASONS FOR NOTICE													
Annual Assessment Notice required by GA Law (OCGA-48-5-306)													
Based on the following: Review, Property Return or Audit													
The estimate of your ad valorem tax bill for the current year is based on the previous year's millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions.													
Taxing Authority	Taxable Assessment	X	2014 Millage	=	Gross Tax Amount	-	Frozen Exemption	-	CONST-HMST Exemption	-	Host Credit	=	Net Tax Due
COUNTY OPNS	33,520		.008220		275.53		.00		82.20		111.55		81.78
HOSPITALS	33,520		.000800		26.82		.00		8.00		10.86		7.96
COUNTY BONDS	33,520		.000010		.34		.00		.00		.00		.34
UNIC BONDS	33,520		.001670		55.98		.00		.00		.00		55.98
FIRE	33,520		.002870		96.20		.00		28.70		38.95		28.55
UNIC TAXDIST	33,520		.001460		48.94		.00		14.60		19.81		14.53
POLICE SERVC	33,520		.006180		207.15		.00		61.80		83.87		61.48
SCHOOL OPNS	33,520		.023980		803.81		.00		299.75		.00		504.06
STATE TAXES	33,520		.000100		3.35		.00		.20		.00		3.15
STREET LIGHT					29.00								29.00
DEKALB SANI					265.00								265.00
STORMWTR FEE					48.00								48.00
Estimate for County			.045290		1,860.12		.00		495.25		265.04		1,099.83
Total Estimate			.045290		1,860.12		.00		495.25		265.04		1,099.83

See Reverse

LGS-306 (rev 12/2010)

"Exhibit A"

**UNITED STATES BANKRUPTCY COURT  
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IN RE:	*	CASE NO. 15-68137-PMB
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DEBTORS.	*	
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RODNEY RENARD TOOMER, SR,	*	
JERDONNA LAFAYE SAWYER,	*	<b>CONTESTED MATTER</b>
MOVANTS,	*	
VS.	*	
	*	
BAYVIEW LOAN SERVICING LLC,	*	
CLAIM NOT FILED	*	
RESPONDENT.	*	
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**NOTICE OF HEARING ON MOTION TO DETERMINE SECURED STATUS OF  
CLAIM OF JUNIOR LIEN HOLDER BAYVIEW LOAN SERVICING LLC**

**PLEASE TAKE NOTICE** that the Debtor in the above-referenced matter filed a “**Motion**” seeking to determine secured status of claim.

**PLEASE TAKE FURTHER NOTICE** that the Court will hold a hearing on the matter in Court Room 1202 of the US Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303, at 2:00 PM, on November 12, 2015.

Your rights may be affected by the court’s ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the

response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is Clerk, U. S. Bankruptcy Court, Suite 1340, 75 Ted Turner Drive SW, Atlanta Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

Respectfully submitted,  
Clark & Washington, LLC

s/\_\_\_\_\_  
**Thomas J Reichard**  
GA Bar No. 150822  
Attorney for the Debtor

Clark & Washington, PC  
3300 Northeast Expressway  
Building 3  
Atlanta, GA 30341  
(404) 522-2222  
Fax (770)220-0685

### **CERTIFICATE OF SERVICE**

I certify that I served the Debtor with a true and correct copy of the within the and foregoing “Notice of Hearing on Motion to Determine Secured Status of Claim of Junior Lien Holder Bayview Loan Servicing LLC” and “Motion to Determine Secured Status of Claim of Junior Lien Holder Bayview Loan Servicing LLC” by placing the same in the United States Mail with adequate postage affixed to ensure delivery and addressed as follows:

Rodney Renard Toomer, Sr  
Jerdonna Lafaye Sawyer  
4318 Grant Forest Circle  
Ellenwood, GA 30294

Bayview Loan Servicing LLC  
Reg. Agent: Corporation Service Company  
40 Technology Pkwy South, Suite 300  
Norcross, GA 30092

**We served by Certified Mail**  
**Recpt #: 7014 2870 0001 3034 3494**

Bayview Loan Servicing LLC  
Richard O’Brien, President  
4425 Ponce De Leon Blvd  
Coral Gables, FL 33146

Bayview Loan Servicing LLC  
c/o Viraj Deshmukh  
Pendergast & Associates, P.C.  
211 Perimeter Center Parkway, Suite 300  
Atlanta, GA 30346

I further certify that, by agreement of the parties, Adam Goodman, Standing Chapter 13 Trustee, was served via the ECF electronic mail/noticing system.

Dated 10/02/15

Clark & Washington, PC  
3300 Northeast Expressway  
Building 3  
Atlanta, GA 30341  
(404) 522-2222  
Fax(770)220-0685

s/

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Thomas J Reichard  
GA Bar No. 150822